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EX PARTE OR LATE FILED

February 17, 2000

EX PARTE

Ms. Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
The Portals, 445 Twelfth Street, S.W.
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

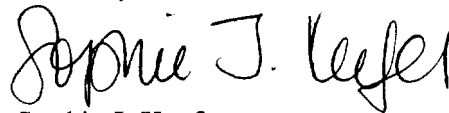
Re: *Ex Parte* Presentation in CC Docket Nos. 96-115 and 99-273

Dear Ms. Salas:

Yesterday, representatives of the Association of Directory Publishers ("ADP"), met with William Kehoe and Daniel Shiman of the Policy and Planning Division of the Common Carrier Bureau and Gregory Cooke, Dennis Johnson, and Robin Smolen of the Network Services Division of the Common Carrier Bureau to discuss the above-referenced proceedings. ADP's statements summarized its comments, reply comments and other pleadings in these proceedings. A copy of a handout provided to the participants in the meeting is attached hereto. ADP was represented by Philip Verveer and the undersigned.

Should you have any questions regarding this filing, please contact the undersigned at (202) 429-4730.

Sincerely,



Sophie J. Keefer

Attachment

cc:	William Kehoe	Gregory Cooke
	Daniel Shiman	Dennis Johnson
	Robin Smolen	

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THE ASSOCIATION OF DIRECTORY PUBLISHERS

Ex Parte Presentation

February 16, 2000

I. The Commission must mandate nondiscriminatory provision of CLEC listings by ILECs to independent directory publishers:

- ILECs provide their own directory publishing affiliates with all SLI received from CLECs pursuant to their interconnection agreements with the CLECs. Moreover, most ILECs will provide CLECs' SLI to independent directory publishers if the CLEC has provided its consent and/or amended its interconnection agreement with the ILEC. This practice results in unlawful discrimination because the ILECs' publishing affiliates receive complete SLI for all CLECs' subscribers, see Attachments hereto, while independent publishers must engage in costly and time consuming activity to identify (from generally incomplete and outdated public records) and contact each CLEC to persuade it to provide data that, largely because of the CLEC's arrangements with the ILEC, the CLEC is generally not in a position to provide in a usable form. Because of its position as an affiliate of the monopoly provider of local exchange service in its service area, an ILEC's publishing affiliate knows which CLECs have listings in a given area and obtain these listings for free and with little to no effort.
- In the context of (1) names and addresses of subscribers with unlisted or unpublished numbers; (2) listing information used by ILECs to provide reverse directory services; and (3) listing information used by ILECs to provide nonlocal directory assistance, the Commission has ordered relief similar to that requested here to remedy discrimination resulting from ILECs' access to complete information concerning the telephone numbers of their own as well as other carriers' customers operating in their regions. See Third Report and Order, at ¶ 41; In re Petition of US WEST Communications for a Declaratory Ruling Regarding the Provision of National Directory Assistance, CC Docket No. 97-172, Memorandum Opinion and Order, FCC 99-133, at ¶ 35 (rel. Sept. 27, 1999); In re Bell Operating Companies Petitions for Forbearance From the Application of Section 272 of the Communications Act of 1934, As Amended, to Certain Activities, 13 FCC Rcd. 2627, at ¶ 82 (1998).
- ALTS, TRA, and CompTel supported ADP's Petition on this issue. TRA correctly noted that "[f]or every advantage conferred by an incumbent LEC's practice of providing competitive LEC SLI only to its publishing affiliate, the incumbent LEC imposes a corresponding disadvantage upon some other party." TRA Comments, at 6 (filed Jan. 11, 2000).
- Therefore, on reconsideration of the Third Report and Order, the Commission should clarify that incumbent LECs may not discriminate between their own publishing affiliates and independent publishers in the provision of listings of CLECs gathered pursuant to interconnection agreements with the CLECs.

- II. The Commission should reject commenters' proposals for a market-based benchmark rate for rural telcos:
- The \$0.42 benchmark proposed by NTCA is based on a survey in which NTCA polled its members concerning the current rates charged by its members for SLI. At the outset, therefore, this survey can not be instructive, as prior to the Commission's implementation of Section 222(e), most carriers believed that they could charge "whatever-the-market-will-bear" for SLI.
 - NTCA incorrectly claims that ADP's members have "abused the FCC's initial 4 cents ruling by using it to attempt to threaten, intimidate, and coerce small carriers into providing their listings at below cost prices." NTCA *Ex Parte* Submission (filed Feb. 8, 2000). In fact, independent directory publishers are seeking to enforce their legal right to purchase SLI at reasonable, cost-based rates.
- III. The Commission should reduce to seven days the period within which LECs must inform independent publishers that they cannot comply with a request for SLI:
- Several commenters opposed ADP's request that the FCC reduce to seven days the period within which LECs must inform publishers that they cannot comply with a request for SLI. ADP believes that these commenters have misunderstood ADP's Petition.
 - ADP is concerned that the FCC's rules, as written, will result in unintended consequences. The Third Report and Order states that listings must be ordered thirty days in advance. The Order also permits carriers to wait thirty days to inform a publisher that the format requested is not available and to offer alternative formats. Thus, a publisher may receive notice that the LEC can not meet its request for listings on the thirtieth day following its initial request, *i.e.*, the day the publisher expected to receive the listings.
- IV. The Commission should reject Petitioners' suggestions that carriers be permitted to immediately cease providing SLI to a publishers if the carrier believes that the publisher is misusing the SLI:
- Adoption of this draconian approach to suspected misuse of SLI by carriers -- termination of all rights to obtain SLI -- would have serious anticompetitive effects. Carriers could utilize this approach to put a competing publisher out of business.
 - In addition, this approach is unnecessary, as commenters provide no evidence in the record of publisher abuse of SLI.

V. Other issues on reconsideration:

- The Commission should recognize an affirmative obligation for carriers to provide delivery information for unlisted or unpublished subscribers if the carrier provides that information to its own directory publishing affiliates.
- The Commission should modify the complaint procedures to routinely provide interim relief for publishers and to ensure that complaints concerning SLI rates are treated expeditiously.
- The Commission should continue to require every carrier to make available to publishers, upon request, contracts governing the provision of SLI to itself, an affiliate, or an entity that publishes directories on the carrier's behalf.

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9. How do you get this information from other telephone companies providing local service?





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